

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

HAYWARD INDUSTRIES, INC.,

Plaintiff,

v.

Civil Action No. 3:20-cv-00710-MOC-SCR

BLUEWORKS CORPORATION,
BLUEWORKS INNOVATION
CORPORATION, NINGBO C.F.
ELECTRONIC TECH CO., LTD.,
NINGBO YISHANG IMPORT AND
EXPORT CO., LTD.,

Defendants.

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
ON PLAINTIFF'S CLAIMS WITH RESPECT TO THE
TURBO CELL, T-CELL-3, T-CELL-9, AND T-CELL-15 MARKS**

Defendants hereby move the Court for summary judgment pursuant to Federal Rule of Civil Procedure 56 on the following claims in Plaintiff's Amended Complaint (Doc. No. 57):

Count VI – Trademark Infringement of the TURBO CELL® Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);

Count VII – Trademark Infringement of the T-CELL-3® Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);

Count VIII – Trademark Infringement of the T-CELL-9® Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);

Count IX – Trademark Infringement of the T-CELL-15® Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);

Count XI – Federal Trademark Counterfeiting in Violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114 (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks);

Count XII – False Designation of Origin in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) by Unauthorized Use of the TURBO CELL®, T-CELL-3®, T-CELL-9®, and T-CELL-15® Trademarks;

Count XIII – False Designation of Origin in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) by Unauthorized Use of the T-Cell™ Trademarks;

Count XIV - Passing Off in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks);

Count XV – Violation of Section 42 of the Lanham Act, 15 U.S.C. § 1124, Importation (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks);

Count XVI – Unfair Competition and Trademark Infringement under North Carolina Common Law (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks);

Count XVII – Tortious Interference with Prospective Economic Advantage (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks);

Count XVIII – Unjust Enrichment (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks);

Count XIX – Unfair or Deceptive Trade Practices in violation of N.C. Gen. Stat. § 75-1.1 (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks); and

Count XX – Contributory Infringement and Vicarious Liability (Against Ningbo entities) (with respect to the TURBO CELL, T-CELL-3, T-CELL-9, and T-CELL-15 marks).

In support thereof, Defendants file a Memorandum of Law contemporaneously herewith.

Dated: June 8, 2023

Respectfully submitted,

/s/ Jennifer Seraphine

Jennifer Seraphine (*pro hac vice admitted*)

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2023, the foregoing document was served on all counsel of record using the Court's CM/ECF system, which will send notification of such filing to any CM/ECF participants.

Respectfully submitted,

/s/ Jennifer Seraphine

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